

# **Exhibit A**

**IN THE STATE COURT OF FULTON COUNTY  
STATE OF GEORGIA**

MELISSA ZODA,

Plaintiff,

vs.

ECKLUND LOGISTICS, INC.,  
WESTFIELD INSURANCE COMPANY  
AND KERRY SAMMONS,

Defendants.

**JURY TRIAL DEMANDED**

CIVIL ACTION

FILE NO. \_\_\_\_\_

**COMPLAINT**

COMES NOW Melissa Zoda, Plaintiff, and makes and files this complaint against Defendants Ecklund Logistics, Inc., Westfield Insurance Company, Inc., and Kerry Sammons as follows:

**PARTIES AND JURISDICTION**

1.

Plaintiff Melissa Zoda is a citizen of the State of Tennessee, and is subject to the jurisdiction of this court.

2.

Defendant Ecklund Logistics, Inc. ("Ecklund Logistics") is a foreign corporation, existing under the laws of the State of Wisconsin with its principal place of business in the State of Wisconsin, and is authorized to transact business in the State of Georgia, and may be served through its registered agent Christopher Meacham at 5704 Veterans Parkway Columbus, Muscogee County, Georgia 31904 and is subject to the jurisdiction of this court.

3.

Defendant Westfield Insurance Company, Inc (“Westfield”) is a foreign corporation, existing under the laws of the State of Ohio with its principal place of business in the State of Ohio and may be served through its registered agent CT Corporation System 1201 Peachtree Street, NE, Atlanta, Fulton County, Georgia 30361 and is subject to the jurisdiction of this court.

4.

Defendant Kerry Sammons (“Sammons”) is a citizen of the State of Illinois and may be served at his resident address at 913 23<sup>rd</sup> Street Rock Island, Illinois 61201 and is subject to the jurisdiction of this court.

5.

Jurisdiction and venue are proper in this court.

### **BACKGROUND**

6.

On or about December 8, 2014, Plaintiff was a passenger in a vehicle traveling on I-985 Southbound in Jackson County, Georgia.

7.

Suddenly and without warning, a tractor-trailer driven by Defendant Sammons improperly and illegally entered Plaintiff’s lane of travel.

8.

The front of Defendant Sammons’ vehicle collided with the rear and side of the vehicle Plaintiff’s vehicle.

9.

As a result of the collision, Plaintiff suffered severe and permanent injuries to her neck requiring surgery.

**COUNT I – NEGLIGENCE**

10.

Plaintiff realleges and incorporates herein the allegations contained in paragraphs 1 through 9 above as if fully restated.

11.

Defendant Sammons was negligent in failing to maintain his lane of travel, for negligently entering Plaintiff's lane of travel, and failing to maintain a lookout for Plaintiff's vehicle.

12.

Defendant Sammons was negligent in colliding with Plaintiff's vehicle.

13.

Defendant Sammons' negligence is the sole and proximate cause of the collision, and Plaintiff's resulting injuries.

**COUNT II – IMPUTED LIABILITY**

14.

Plaintiff realleges and incorporates herein the allegations contained in paragraphs 1 through 13 above as if fully restated.

15.

At the time of the subject collision, Defendant Sammons was under dispatch for Defendant Ecklund Logistics.

16.

At the time of the subject collision, Defendant Sammons was operating his vehicle on behalf of Defendant Ecklund Logistics.

17.

Defendant Ecklund Logistics is an interstate or intrastate motor carrier, and pursuant to federal and state laws, is responsible for the actions of Defendant Sammons in regard to the collision described in this complaint under the doctrine of lease liability, agency, or apparent agency.

**COUNT III – NEGLIGENT HIRING, TRAINING & SUPERVISION**

18.

Plaintiff realleges and incorporates herein the allegations contained in paragraphs 1 through 17 above as if fully restated.

19.

Defendant Ecklund Logistics was negligent in hiring Defendant Sammons and entrusting him to drive a tractor-trailer.

20.

Defendant Ecklund Logistics was negligent in failing to properly train Defendant Sammons.

21.

Defendant Ecklund Logistics was negligent in failing to properly supervise Defendant Sammons.

22.

Defendant Ecklund Logistics' negligence in hiring Defendant Sammons and entrusting him with driving a commercial vehicle and failing to train and supervise him properly was the sole and proximate cause of the collision, and Plaintiff's resulting injuries.

**COUNT IV – DIRECT ACTION**

23.

Plaintiff realleges and incorporates herein the allegations contained in paragraphs 1 through 22 above as if fully restated.

24.

Defendant Westfield is subject to a direct action as the insurer for Defendant Ecklund Logistics pursuant to O.C.G.A. § 40-2-140.

25.

Defendant Westfield was the insurer of Defendant Ecklund Logistics at the time of the subject incident and issued a liability policy to comply with the filing requirements under Georgia law for intrastate transportation.

26.

Defendants Ecklund Logistics and Westfield are subject to the filing requirements outlined in O.C.G.A. § 40-2-140.

27.

Defendant Westfield is responsible for any judgment rendered against Defendant Ecklund Logistics and Defendant Sammons.

**COUNT V – DAMAGES**

28.

Plaintiff realleges and incorporates herein the allegations contained in paragraphs 1 through 28 above as if fully restated.

29.

As a result of Defendants' negligence, Plaintiff suffered multiple orthopedic injuries requiring surgery.

30.

As a result of Defendants' negligence, Plaintiff has incurred past medical expenses and will continue to incur future medical expenses.

31.

As a result of Defendants' negligence, Plaintiff has been unable to work and has a claim for lost wages.

32.

Defendants' negligence is the sole and proximate cause of Plaintiff's injuries.

#### **COUNT VI – PUNITIVE DAMAGES**

33.

Plaintiff realleges and incorporates herein the allegations contained in paragraphs 1 through 33 above as if fully restated.

34.

Defendants' conduct was reckless, willful and wanton, and demonstrates a conscious indifference to the consequences of their actions and entitles Plaintiff to an award of punitive damages.

**WHEREFORE**, Plaintiff prays that she have a trial on all issues and judgment against Defendants as follows:

- a. That Plaintiff recover the full value of her past and future medical expenses and past and future lost wages in an amount to be proven at trial;
- b. That Plaintiff recover for physical and mental pain and suffering in an amount to be determined by the enlightened conscience of a jury;
- c. That Plaintiff recover for her permanent disability and loss of enjoyment of life in an amount to be determined by the enlightened conscience of a jury;
- d. That Plaintiff recover punitive damages in an amount to be determined by the enlightened conscience of a jury;
- e. That Plaintiff recover such other and further relief as is just and proper

This 16<sup>th</sup> day of May, 2016.

**FRIED ROGERS GOLDBERG LLC**

/s/ Michael L. Goldberg

MICHAEL L. GOLDBERG

GEORGIA STATE BAR NUMBER 299472

ERIC J.D. ROGERS

GEORGIA STATE BAR NUMBER 100081

3560 LENOX ROAD, N.E.  
SUITE 1250  
ATLANTA, GEORGIA 30326  
404-591-1800  
404-591-1801 (FAX)  
[MICHAEL@FRG-LAW.COM](mailto:MICHAEL@FRG-LAW.COM)  
[ERIC@FRG-LAW.COM](mailto:ERIC@FRG-LAW.COM)

**HENNINGSSEN INJURY ATTORNEYS, P.C.**

/s/ Todd R. Henningsen

TODD R. HENNINGSSEN

GEORGIA STATE BAR NO. 125746



3405 PIEDMONT ROAD  
SUITE 500  
ATLANTA, GA 30305  
TELEPHONE: 404-835-4935  
FACSIMILE: 404-240-1725  
[TODD@ATLANTAPIATTORNEY.COM](mailto:TODD@ATLANTAPIATTORNEY.COM)

GEORGIA, FULTON COUNTY

DO NOT WRITE IN THIS SPACE

STATE COURT OF FULTON COUNTY  
Civil Division

CIVIL ACTION FILE NO. \_\_\_\_\_

Melissa Zoda  
c/o Fried Rogers Goldberg, LLC  
3560 Lenox Rd., N.E., Suite 1250  
Atlanta, Georgia 30326

Plaintiff's Name, Address, City, State, Zip Code

vs.

Westfield Insurance Company  
c/o Reg. Agent CT Corporation System  
1201 Peachtree Street, N.E.  
Atlanta, Fulton County, Georgia 30361

Defendant's Name, Address, City, State, Zip Code

TYPE OF SUIT	AMOUNT OF SUIT
<input type="checkbox"/> ACCOUNT	PRINCIPAL \$ _____
<input type="checkbox"/> CONTRACT	
<input type="checkbox"/> NOTE	INTEREST \$ _____
<input type="checkbox"/> TORT	
<input type="checkbox"/> PERSONAL INJURY	ATTY. FEES \$ _____
<input type="checkbox"/> FOREIGN JUDGMENT	
<input type="checkbox"/> TROVER	COURT COST \$ _____
<input type="checkbox"/> SPECIAL LIEN	
*****	
<input type="checkbox"/> NEW FILING	
<input type="checkbox"/> RE-FILING: PREVIOUS CASE NO. _____	

**SUMMONS**

TO THE ABOVE NAMED-DEFENDANT:


You are hereby required to file with the Clerk of said court and to serve a copy on the Plaintiff's Attorney, or on Plaintiff if no Attorney, to-wit:

Name: Michael L. GoldbergAddress: 3560 Lenox Rd., N.E., Suite 1250City, State, Zip Code: Atlanta, Georgia 30326 Phone No.: 404-591-1800

An answer to the complaint which is herewith served on you, within thirty (30) days after service on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint, plus cost of this action. **DEFENSE MAY BE MADE & JURY TRIAL DEMANDED**, via electronic filing through eFileGA via www.eFileGA.com or, if desired, at the e-filing public access terminal in the Clerk's Office at 185 Central Ave., S.W., Room TG100, Atlanta, GA 30303.

**5/16/2016 1:20:12 PM**

This \_\_\_\_\_

  
Cicely Barber, Chief Clerk (electronic signature)

If the sum claimed in the suit, or value of the property sued for, is \$300.00 or more Principal, the defendant must admit or deny the paragraphs of plaintiff's petition by making written Answer. Such paragraphs not denied will be taken as true. If the plaintiff's petition is sworn to, or if suit is based on an unconditional contract in writing, then the defendant's answer must be sworn to.

If the principal sum claimed in the suit, or value of the property sued for, is less than \$300.00, and is on a note, unconditional contract, account sworn to, or the petition sworn to, defense must be made by filing a sworn answer setting up the facts relied on as a defense.

**SERVICE INFORMATION:**

Served, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
DEPUTY MARSHAL, STATE COURT OF FULTON COUNTY

WRITE VERDICT HERE:

We, the jury, find for \_\_\_\_\_

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. \_\_\_\_\_ Foreperson

(STAPLE TO FRONT OF COMPLAINT)

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Plaintiff's Name, Address, City, State, Zip Code

vs.

Kerry Sammons  
913 23rd Street  
Rock Island, Illinois 61201

Defendant's Name, Address, City, State, Zip Code

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Plaintiff's Name, Address, City, State, Zip Code

vs.

Ecklund Logistics, Inc.  
c/o Reg. Agent Christopher Meacham  
5704 Veterans Parkway  
Columbus, Muscogee County, GA 31904

Defendant's Name, Address, City, State, Zip Code

TYPE OF SUIT	AMOUNT OF SUIT
<input type="checkbox"/> ACCOUNT	PRINCIPAL \$ _____
<input type="checkbox"/> CONTRACT	
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## General Civil Case Filing Information Form (Non-Domestic)

**Court** ☐ Superior ☒ State **County** Fulton **Date Filed** 05-16-2016  
**Docket #** \_\_\_\_\_ **MM-DD-YYYY**

**Plaintiff(s)**Zoda, Melissa

Last First Middle I. Suffix Prefix Maiden

Last First Middle I. Suffix Prefix Maiden

Last First Middle I. Suffix Prefix Maiden

Last First Middle I. Suffix Prefix Maiden

**Defendant(s)**Ecklund Logistics, Inc.

Last First Middle I. Suffix Prefix Maiden

Westfield Insurance Company

Last First Middle I. Suffix Prefix Maiden

Kerry Sammons

Last First Middle I. Suffix Prefix Maiden

Last First Middle I. Suffix Prefix Maiden

**No. of Plaintiffs: 1****No. of Defendants: 3****Plaintiff/Petitioner's Attorney** ☐ **Pro Se**Rogers, Eric J. D.

Last First Middle I. Suffix

**Bar #** 100081**Check Primary Type (Check only ONE)**

- ☐ Contract/Account  
☐ Wills/Estate  
☐ Real Property  
☐ Dispossessory/Distress  
☐ Personal Property  
☐ Equity  
☐ Habeas Corpus  
☐ Appeals, Reviews  
☐ Post Judgment Garnishment, Attachment, or Other Relief  
☐ Non-Domestic Contempt  
☒ Tort (If tort, fill in right column)  
☐ Other General Civil Specify \_\_\_\_\_  
 \_\_\_\_\_

**If Tort is Case Type:**(Check no more than **TWO**)

- ☒ Auto Accident  
☐ Premises Liability  
☐ Medical Malpractice  
☐ Other Professional Negligence  
☐ Product Liability  
☐ Other Specify \_\_\_\_\_  
 \_\_\_\_\_

**Are Punitive Damages Pleaded?** ☒ Yes ☐ No